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No. 1609

LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

NOTIFICATION

No. LAW 33 LGN 75, Bangalore, dated 17th June 1975.

Ordered that the Karnataka Vacant Lands in Urban Areas (Prohibition of Alienation) Ordinance, 1975 promulgated by the Governor on the Seventeenth day of June 1975 be published as Karnataka Ordinance No. 4 of 1975 in the Karnataka Gazette for general information.

KARNATAKA ORDINANCE No. 4 OF 1975

The Karnataka Vacant Lands in Urban Areas (Prohibition of Alienation) Ordinance, 1975.

(Promulgated by the Governor of Karnataka in the Twenty-sixth Year of the Republic of India and first published in the Karnataka Gazette Extraordinary on the Seventeenth day of June 1975.

An Ordinance to prohibit alienation of certain vacant lands in urban areas in the State of Karnataka.

Whereas it is necessary and expedient in public interest to prohibit alienation of certain vacant lands in certain urban areas with a view to prevent speculation pending the enactment of a law for fixing ceiling on vacant lands in urban areas and for giving effect to the policy of the State towards securing the principles specified in clauses (b) and (c) of Article 39 of the Constitution of India;

And Whereas it is apprehended that large scale transfers of such vacant lands may take place to defeat the object in view;

And Whereas neither House of the State Legislature is in session and the Governor of Karnataka is satisfied that circumstances exist which render it necessary for him to take immediate action to prohibit alienation of certain vacant lands in urban areas;

And Whereas the instructions of the President have been obtained in pursuance of the proviso to clause (1) of Article 213 of the Constitution of India;

Now, Therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Karnataka is pleased to promulgate the following Ordinance, namely:—

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Karnataka Vacant Lands in Urban Areas (Prohibition of Alienation) Ordinance, 1975.

(2) It extends to the whole of the State of Karnataka.

(3) It shall come into force at once in the City of Bangalore, City of Hubli Dharwar and in the Municipalities of Mysore, Mangalore, Belgaum, Gulbarga,

Bellary, Davangere, Bijapur, Shimoga and Bhadravati and in such other urban areas on such date as the State Government may, by notification, specify and different dates may be specified for different areas.

2. **Declaration.**—It is hereby declared that this Ordinance is for giving effect to the policy of the State towards securing the principles specified in clause (b) and (c) of Article 39 of the Constitution of India.

3. **Definitions.**—In this Ordinance, unless the context otherwise requires,—

(a) 'appointed day' means the date of coming into force of this Ordinance;

(b) 'compact block' means any block of vacant land in an urban area, exceeding one thousand square metres in extent whether owned by one person or jointly by more than one person or owned in contiguous part separately by one or more members of a family unit and whether or not divided by a private road, street, land, footway, passage or drain, natural or artificial;

(c) 'family unit' means an individual, his, her spouse and their children;

(d) 'person' includes an individual, undivided Hindu family, a trustee, a company, a society or an association of individuals, whether incorporated or not;

(e) 'trust' includes a trust created for public purposes of a charitable or religious nature;

(f) 'urban area' means any area which is comprised for the time being,—

(i) in the City of Bangalore Municipal Corporation and the area within ten kilometres from the limits of the said Corporation;

(ii) in the City of Hubli-Dharwar Municipal Corporation, the Mysore City Municipality, the Davanagere City Municipality, the Mangalore City Municipality, the Robertsonpet Town Municipality, the Bagalkot City

Municipality and the Kolar Gold Fields Sanitary Board Area and the area within eight kilometres from the municipal limits of each such city or Town or the Board ;

(iii) in any City or Town Municipality other than those specified in sub-clause (ii) in which the Headquarters of a District is situated, the Gadag Betegeri City Municipality and the Dandeli notified area and the area within five kilometres from the limits of any such city, town or area ; and

(iv) in any town municipality or notified area other than those specified in sub-clauses (ii) and (iii) and the area within three kilometres from the limits of any such municipality or notified area ;

(g) 'vacant land' means land in an urban area, agricultural or non-agricultural, other than land on which any building has been or is being constructed in accordance with any law regulating such construction and the land appurtenant to such building to the minimum extent required under the law or three times the plinth area of such building, whichever is larger.

Explanation.—For the purposes of this Ordinance, any land which is vacant on the appointed day shall be deemed to be vacant land notwithstanding that the construction of a building thereon has been commenced on or after the said date.

4. Prohibition of alienation, etc.—(1) No person who owns any vacant land shall, on or after the appointed day, alienate such land by way of sale, gift, exchange, usufructuary mortgage, lease or otherwise, or effect a partition or create a trust of such land, and any alienation made or partition effected or trust created in contravention of this section shall be **null** and **void**.

Provided that nothing in this sub-section shall apply to the alienation by any person of any one plot of vacant land owned by him not exceeding one thousand square

metres in extent and not forming part of a compact block or to the effecting of a partition or creation of a trust of any such plot :

Provided further that nothing in this sub-section shall apply to lease for a period not exceeding five years and simple mortgages.

(2) The provisions of sub-section (1) shall apply to any sale, partition or creation of trust of vacant land by any person in execution of a decree or order of a civil court or of any award or order of any other authority.

5. Restrictions on registration of documents.—Notwithstanding anything contained in the Registration Act, 1908,—

(a) no document relating to alienation of a vacant land (otherwise than by way of lease for a period not exceeding five years or simple mortgage) or to partition or creation of a trust of such land shall be registered on or after the appointed day by any registering officer appointed under the said Act unless the person presenting the document furnishes a declaration by the transferor in the prescribed form, which shall be subject to verification in the prescribed manner,—

(i) that the plot of vacant land owned by him and intended to be alienated or partitioned or as the case may be, in respect of which a trust is intended to be created does not exceed one thousand square metres in extent;

(ii) that such vacant land does not form part of a compact block; and

(iii) that no other plot of vacant land or no plot of vacant land other than a plot to which the provisions of this Ordinance do not apply under Section 4, 6 or 7 owned by him has been alienated or partitioned on or after the appointed day or that no trust has been created in respect of such plot on or after the appointed day ;

(b) a document relating to alienation or partition of vacant land or the creation of any trust for any vacant land registered on or after the appointed day, shall for the purposes of Section 4, take effect and operate only from the time of such registration.

6. Ordinance not to apply in certain cases.—Nothing in this Ordinance shall apply to any transfer of vacant land by or in favour of,—

(a) a State Government or the Central Government or a local authority;

(b) a Government company as defined in Section 617 of the Companies Act, 1956;

(c) a Corporation established by or under a Central or State Act, which is controlled or managed by a State Government or the Central Government;

(d) such co-operative house building societies established for the purposes of providing house accommodation to weaker sections of the people as may be approved by the State Government in this behalf:

Provided that in giving such approval the State Government shall have regard to the income of the members of such societies or their social backwardness or such other considerations as may be prescribed

Provided further that if at any time the State Government is satisfied that if the approval accorded to any society has not served the purpose for which it was accorded, it may withdraw such approval, after giving an opportunity to the society for making a representation against the proposed withdrawal;

(e) a bank.

Explanation.—For purposes of this clause 'bank' means a banking company as defined in section 5 of the Banking Regulation Act, 1949 and includes the State Bank of India constituted by the State Bank of India Act, 1955, a subsidiary

bank as defined in the State Bank of India (Subsidiary Banks) Act, 1956 and a corresponding new bank as defined in the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 and any other financial institution notified in the official Gazette in this behalf by the State Government.

7. Power to exempt.—(1) The State Government may by a general or special order for reasons to be recorded in writing exempt any area or any alienation or other transfer or the effecting of any partition or the creation of any trust of any vacant land from all or any of the provisions of this Ordinance.

(2) The State Government may, if it considers it necessary so to do for avoiding any hardship, exempt by an order in writing any alienation or other transfer or the effecting of any partition or the creation of any trust of any vacant land from all or any of the provisions of this Ordinance.

(3) Subject to any rules that may be made in this behalf, the Deputy Commissioner may, by order, exempt any alienation or other transfer of any vacant land from the provisions of this Ordinance in case the land is to be used for educational, scientific, industrial or commercial purposes or for such other purposes as may be prescribed.

(4) Every order issued by the State Government under sub-section (1) or (2) and by the Deputy Commissioner under sub-section (3) shall be laid before the State Legislature as soon as possible after it is issued.

8. Alienation, etc., made on or after the first day of May 1975 but before the appointed day.—(1) Where, on or after the first day of May 1975 but before the appointed day, any person has alienated, whether by way of sale, gift, exchange, usufructuary mortgage, lease or otherwise, any vacant land owned by him or has effected a partition or created a trust of any such land, then notwithstanding anything contained in any law for the time being in force, such

alienation, partition, or, as the case may be, trust shall unless it is proved to the contrary, be deemed to have been made, effected, or, as the case may be, created in anticipation in order to defeat the object of this Ordinance or any law that may be enacted in future for imposing restrictions on holding property in excess of certain limits in urban areas (hereinafter referred to as the 'ceiling law') and shall be **null and void** if such alienation, partition, or as the case may be, trust would have been **null and void** under the provisions of this Ordinance had it been made, effected, or as the case may be created on or after the appointed day.

(2) Any person affected by the provisions of sub-section (1) may within the prescribed period and in the prescribed form, make an application to the Deputy Commissioner for a declaration that the alienation, partition, or as the case may be trust was not made, effected, or, as the case may be, created in anticipation to defeat the object of this Ordinance or of the ceiling law.

(3) On receipt of such application, the Deputy Commissioner shall hold an inquiry and after giving an opportunity to the alienator and the alienee, to the parties to the partition, or as the case may be, to the creator of the trust and the persons interested in the trust, to be heard by serving on them a notice in such manner, as may be prescribed and after considering the evidence which may be produced by them, decide whether the alienation, partition, or, as the case may be, trust was or was not made, affected or as the case may be, created in order to defeat the object of this Ordinance or of the ceiling law, and accordingly may—

(i) reject the application, or

(ii) by order in writing make a declaration that the alienation, partition or, as the case may be, trust was not made, effected, or, as the case may be, created in anticipation to defeat the object of this Ordinance or of the ceiling law.

(4) Where no such application has been made within the prescribed period or where any such application is rejected,

the vacant land in respect of which such alienation, partition or, as the case may be, trust was made, effected, or as the case may be, created shall, for the purpose of the ceiling law, be deemed to belong to the owner thereof to whom it belonged immediately before such alienation, partition or, as the case may be, trust was made, effected or as the case may be, created, as if no such alienation, partition or, as the case may be, trust was made, effected or, as the case may be, created, unless the ceiling law provides otherwise.

9. Furnishing information.—The State Government or the Deputy Commissioner may, by general or special order, call upon any person to furnish to it or, as the case may be, him, such information as would in its or, as the case may be, his, opinion be useful for or relevant to, any of the purposes of this Ordinance as may be stated in such order and it shall be the duty of such person to furnish true and correct particulars relating to the information so called for from him.

10. Penalty for contravention, etc.—(1) If on or after the appointed day any person contravenes any of the provisions of this Ordinance or the rules made thereunder or make a declaration which he knows or has reason to believe to be false, he shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to two thousand rupees or with both.

(2) No court shall take cognisance of an offence punishable under this Ordinance except with the previous sanction of the Deputy Commissioner.

11. Appeal against order of Deputy Commissioner.—Any person aggrieved by the order of the Deputy Commissioner under sub-section (3) of Section 7 or sub-section (3) of Section 8, may appeal to the State Government within the prescribed period and in the prescribed manner.

12. Bar of jurisdiction.—No Civil Court shall have jurisdiction to settle, decide or deal with any question which

is by or under this Ordinance required to be settled, decided or dealt with by the Deputy Commissioner or the State Government.

13. Power to make rules.—(1) The State Government may, by notification, make rules for carrying out the purposes of this Ordinance.

(2) Every rule made under this Ordinance shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall from the date on which the modification or annulment is notified by the State Government in the official Gazette have effect only in such modified form or be of no effect, as the case may be ; so however, that any such modification or annulment, shall be without prejudice to the validity of anything previously done under that rule.

14. Ordinance to override other laws.—The provisions of this Ordinance shall have effect, notwithstanding anything inconsistent therewith in any other law for the time being in force, or any custom, usage or agreement, or decree or order of a Court, tribunal or other authority.

MOHANLAL SUKHADIA,
Governor of Karnataka.

By Order and in the name of the Governor of Karnataka,

M. L. RAMASWAMI,
Draftsman and Ex-officio
Joint Secretary to Government,
Dept. of Law & Parly. Affairs.

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